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ORIGINAL

January 5, 2001

BY HAND

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20054

RECEIVED

JAN - 8 2001

**EX PARTE
PRESENTATION**

Re: CC Dkt. No. 96-98

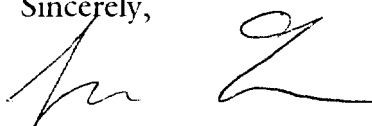
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Salas:

On January 4, 2001, Dave Scott, President and CEO of Birch Telecom, Inc., Gregory Lawhon, Senior Vice President of Public Policy and General Counsel of Birch Telecom, Inc., and Albert Kramer and Jacob Farber of this law firm met with Chairman William Kennard, Anna Gomez, the Chairman's Legal Advisor, and Michelle Carey and Jared Carlson of the Common Carrier Bureau. We discussed the need for an elimination or reduction of the restriction on the availability of switching as an unbundled network element in density zone 1 of the top 50 MSAs. The attached materials were distributed at the meeting.

If you need any further information or have any questions, please do not hesitate to call me.

Sincerely,



Jacob Farber

cc: Chairman William Kennard
Anna Gomez
Michelle Carey
Jared Carlson

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CC Docket 96-98
UNE-P and Facilities-Based Competition
January 4, 2001

UNE-P and Facilities-Based Competition



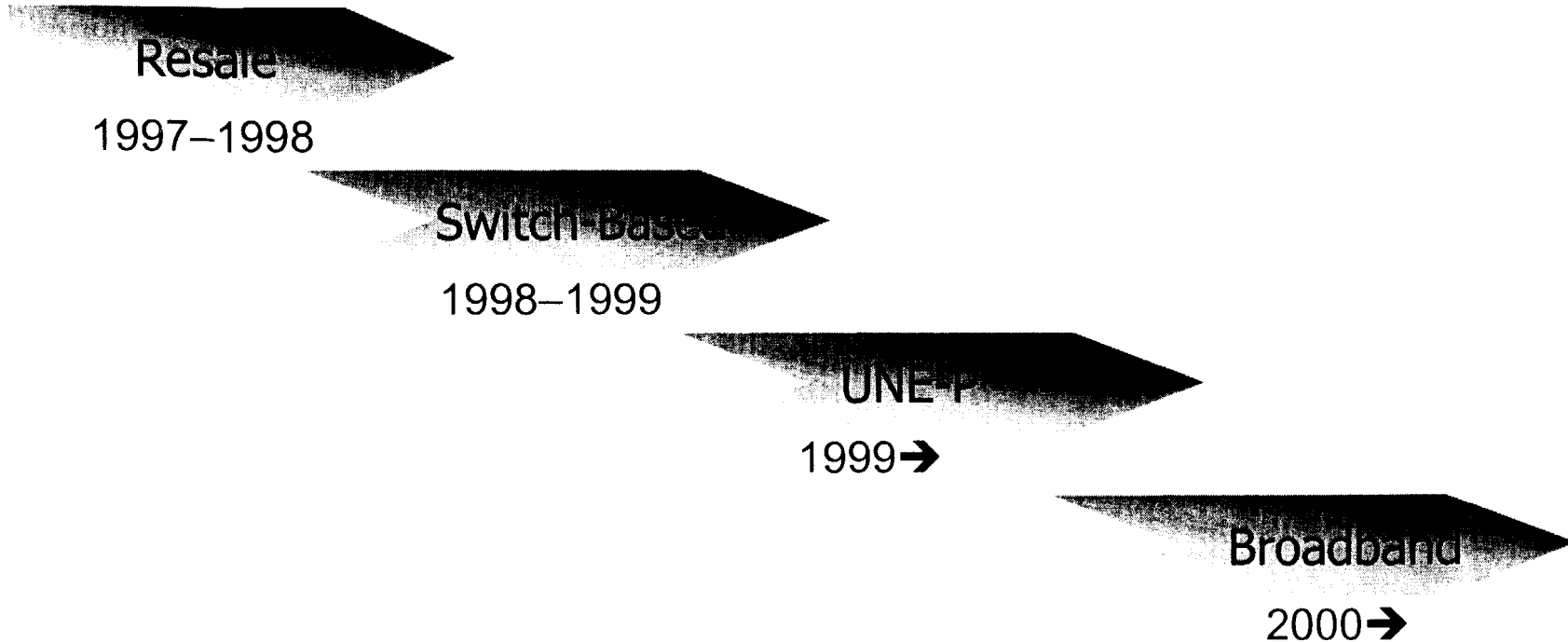
- Birch is a rapidly growing *facilities*-based carrier for whom UNE-P is critical
 - We serve customers and markets that would otherwise not see the benefits of competition
 - To ensure that Birch and other competitive carriers can successfully transition to and develop a facilities-based strategy to serve small business and residential consumers, the Commission must increase the line cap
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Who We Are



- At the end of November 2000 Birch served 65,099 customers with 230,936 access lines
- Currently operational in Texas, Missouri, Kansas, and Oklahoma, targeting small businesses
- Launched service in BellSouth on January 1, 2001
- UNE-P is the key to our facilities-based strategy; it allows us to develop the customer base and revenue stream that are necessary precursors to effective facilities-based competition

Birch's Service Evolution



- Birch began providing service in St. Joseph, Missouri and smaller communities in Kansas in 1997 through resale.
 - Birch installs switches in 1998 in Kansas City, St. Louis, and Wichita.
 - Birch was a UNE-P pioneer in Texas, using its experience there to expand UNE-P to Missouri, Kansas and Oklahoma.
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Facilities-based Strategy

- Circuit switches currently in place in three markets serving customers at DS1-size and above
 - ATM switching network operational
 - Currently rolling out DSL
 - 158 collocations in place
 - Provisioning customers in Texas; trialing in Missouri, Kansas, and Oklahoma
 - Deployment in Texas first because UNE-P available there first
 - Will deploy softswitches once technology is ready
 - Currently testing various vendors' products in proof of concept laboratory
-

Year 2000 Capital Expenditures



(\$ in millions)

Back Office Systems	\$40.0
Collocations	29.0
ATM Switching Facilities	23.0
Integrated Access Devices	2.0
Other	<u>11.0</u>
Total	<u>\$105.0</u>

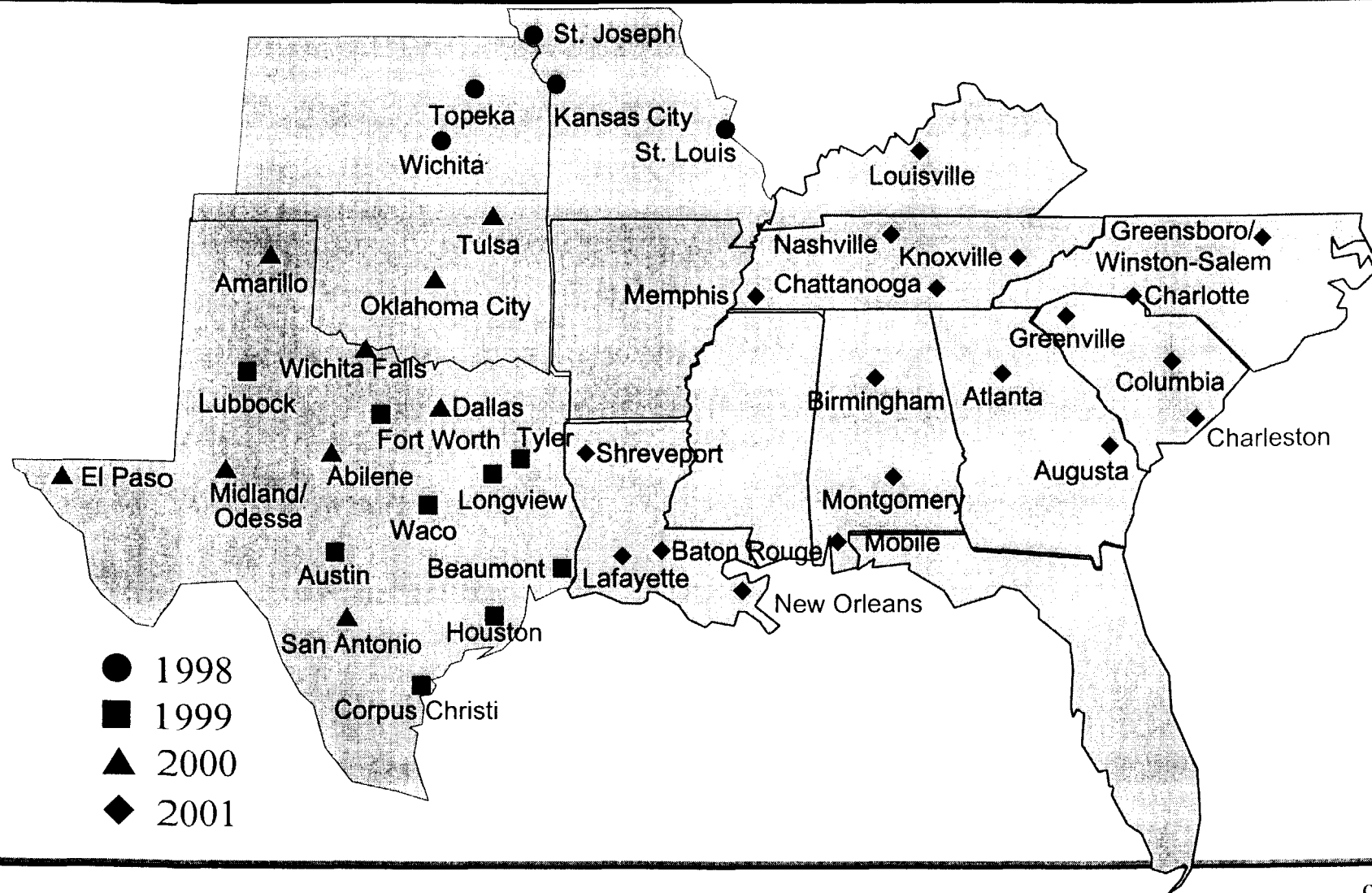
Who Our Customers Are

- We serve the truly small business market
 - Our average customer has fewer than 4 lines (70% have 4 or fewer lines)
 - Yet 45% of revenue from 7+ line customers
 - The carriers who are opposed to an increase in the line cap serve much larger customers
 - Those carriers have average line sizes that range from 8-10 to several times higher
 - These are completely different markets; our sales representatives don't see the other carriers in the field
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Where Our Customers Are

- We are currently in 23 markets in Southwestern Bell, launching 14 in BellSouth
 - We serve the entire market not just downtown business districts
 - We are in Dallas and Beaumont
 - We have customers in every county in Kansas
 - By contrast, the CLECs who oppose an increase in the line cap concentrate on the dense urban cores of Tier 1 markets
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Current Market Coverage



An Increase in the Line Cap is Critical



- We have demonstrated that--even where a circuit switch is already in place--it is not economical to serve customers under the DS1 level through self-provisioned switching
 - Because of the costs associated with the provisioning process, it is not cost effective even at the margin to provide individual analog voice lines to a customer through self-provisioned switching
 - The CLECs opposed to an increase in the line cap are serving very different markets and have very different business plans; their experience does not mean there is no impairment
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An Increase in the Line Cap is Critical



- Birch is currently precluded from serving a segment of our market critical to our overall viability and our ability to serve a broad customer base
- The ability to serve the top 50 markets and grow a customer base is critical both to our ability to continue to serve secondary and tertiary markets and to successfully transition to and develop a softswitch-based VoDSL strategy

An Increase in the Line Cap is Critical



- An increase in the line cap does not stifle the incentive to deploy facilities
 - Circuit switch deployment remains viable for larger customers
 - Birch deploys facilities even where there is no line cap, e.g., TX, MO, OK, KA
- Viability of UNE-P is essential to continued capital inflow for facilities deployment